

EXHIBIT 1

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 CASE NO. 23-CV-00613 (JGK)

4 STONEX GROUP INC., and STONEX)
5 FINANCIAL,)
6 Plaintiff(s),)
7 vs.)
8 HOWARD SHIPMAN,)
9 Defendant(s).)

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14 ** CONFIDENTIAL **

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17 CONTINUED VIDEOTAPED DEPOSITION OF HOWARD SHIPMAN

18

19 New York, New York

20 Wednesday, June 14, 2023

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25 Reported by JEFFREY BENZ, CRR, RMR

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1 without pleading the Fifth. How about you? How
2 many copies do you have in your possession?

3 A. I plead the Fifth.

4 Q. Let me just ask you something. Do you
5 understand the consequence of pleading the Fifth
6 Amendment in a civil case?

7 A. I probably don't, because I'm pro se,
8 but I'm doing the best I can.

9 Q. Do you understand that in a civil
10 case, unlike in a criminal case, an inference
11 can arise that if you plead the Fifth, that the
12 answer to the question would be detrimental to
13 your position in this case if you were to answer
14 truthfully.

15 Do you understand that?

16 A. I do now that you've told me.

17 Q. All right. Just wanted to make sure
18 that you understand that, as we go forward, that
19 because this is a civil case, StoneX is going to
20 be able to rely on every single instance in
21 which you plead the Fifth, and argue that you're
22 pleading the Fifth so as to avoid giving answers
23 that would be detrimental to you and favorable
24 to StoneX. Just want to make sure you
25 understand that.

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1 Q. And as to your possession of Darwin,
2 you are now pleading the Fifth Amendment against
3 self-incrimination. Correct?

4 A. I'm not changing my answer on the
5 questions that I pleaded the Fifth to.

6 Q. Okay. Now, StoneX compensated you,
7 through salary and bonus, to build, to develop
8 Darwin; isn't that right?

9 A. That was one of the things they
10 compensated me for.

11 Q. And, upon your termination, upon
12 learning that your employment with StoneX was
13 ending, you took steps to steal Darwin from
14 StoneX. Correct?

15 A. Incorrect.

16 Q. On December 9, right after you were
17 terminated, you took steps to steal Darwin from
18 StoneX. Didn't you?

19 A. No.

20 Q. And since December 9, 2022, you have
21 taken steps to cover up your theft of Darwin,
22 from StoneX. Correct?

23 A. No.

24 Q. You deleted your bash history from
25 StoneX's servers, correct?

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1 that you read off to me.

2 Q. Okay. But you didn't deny it. You
3 just said, I don't remember whether I did it or
4 not, right?

5 A. Yeah. I can't recall.

6 Q. And likewise here, with respect to the
7 94 times between December 26, 2022 and March 2,
8 2023, you're not testifying, no, absolutely not,
9 I didn't do that. That's not what you're
10 telling us.

11 A. I mean, you have the mind -- legal
12 mind of a steel trap, so there's probably
13 aspects of -- about this that I don't
14 appreciate, but I don't recall executing
15 SDelete.

16 Q. But I'm asking a different question
17 now, because I'm giving you the opportunity to
18 say, absolutely not, no way, that didn't happen.
19 And you're not saying that.

20 A. Yeah, just saying I don't recall.

21 Q. Yeah. So having been given the
22 opportunity to deny this outright that you
23 executed SDelete 94 times between December 26,
24 2023 and March 2, 2023, given the opportunity to
25 deny it outright, you have instead chosen to

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1 answer that question with "I don't recall."

2 A. I don't have any recollection of
3 running SDelete.

4 Q. Okay. You don't have any recollection
5 of doing it. But you're not willing to deny
6 under oath that it ever occurred.

7 A. Yeah, I'm not certain.

8 Q. And then below paragraph 130, and I
9 realized I made a mistake earlier about
10 different -- something else on this page -- but
11 you see here, one of the last passes of
12 overwriting filename is with the Z character.
13 Below is a screen point of locations that were
14 overwritten likely using SDelete on March 1,
15 2023.

16 And then there are some filenames.
17 And then they all have file modify date, file
18 access date, they're all on March 1st.

19 Do you recognize any of those
20 filenames?

21 Users/jovej/atdata/Rome. Then there
22 are bunch of Zs there.

23 Do you recall -- maybe that's not a
24 filename. Maybe it's a folder or a directory,
25 but do you recall that?

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1 I'm going to stop now.

2 We had discussion off the record. I
3 don't want to repeat it in its entirety,
4 but I'm just going to say there are number
5 of things that are still owed to us by
6 Mr. Shipman. Some of that, I believe, will
7 be resolved by this Friday. Maybe not. I
8 don't know.

9 There is a -- at least, one, a Memorex
10 thumb drive that we need to address, based
11 on the testimony here. So we are not
12 agreeing to close the deposition at this
13 point, but we are agreeing to adjourn it as
14 of now.

15 THE VIDEOGRAPHER: This concludes
16 today's deposition. We're off the record
17 at 8:03.

18 (Time noted: 8:03 p.m.)
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1 C E R T I F I C A T E

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3 STATE OF NEW YORK)
4 COUNTY OF NEW YORK) Ss. :

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6 I JEFFREY BENZ, a Certified Realtime
7 Reporter, Registered Merit Reporter and Notary
8 Public within and for the State of New York, do
9 hereby certify:

10 That the witness whose examination is
11 hereinbefore set forth was duly sworn by me and
12 that this transcript of such examination is a
13 true record of the testimony given by such
14 witness.

15 I further certify that I am not related to
16 any of the parties to this action by blood or
17 marriage and that I am in no way interested in
18 the outcome of this matter.

19 IN WITNESS WHEREOF, I have hereunto set my
20 hand this 15th of June, 2023.

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23 _____
24 JEFFREY BENZ, CRR, RMR

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